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SOME FEW SENSATIONS

Anything But Dull About Courts Yesterday.

Judge Robinson Throws Up Club Stables Rehearing.

Mandamus Against Judge Dickey. Objections to Cummins Trustee Accounts.

Certainly there was no complaint coming from anyone in quest of the mildly sensational about the judiciary precincts yesterday. First there was Judge Gear's decision, making it necessary for misdemeanants, down to the ordinary drunk, to be indicted by a grand jury before they can be punished.

Next came the row in the secret chamber of the grand jury in the forenoon, only to be divulged on the house-tops of publicity in the afternoon.

Then there ensued the sudden collapse of the Club Stables equity rehearing before Judge Robinson.

THE CHILTON CASE.

Finally, in minor details, were repeated outbreaks of argument over the admissibility of evidence in the Chilton case of alleged harboring of a stolen child. Mrs. Place, mother of the girl said to have been abducted and concealed, was on the witness stand most of the day. The jury had frequent rests while the lawyers had it out on technicalities with much oratory.

Besides the happenings in open court, some highly interesting matters dropped on the files in the clerk's office.

TRIAL THROWN UP.

Judge Robinson yesterday afternoon broke off his hearing of the Club Stables equity suit, declining to have more to do with it. The Supreme Court had set aside a decision by Judge De Bolt in favor of the defendants, remitting the case to the Circuit Court for such further proceedings as the overruling opinion required. Amongst the declared views of the appellate court was one that sufficient testimony had not been taken below to show that the disputed salaries were not excessive as alleged in the complaint of Bolte et al.

The testimony at the former trial was read now under stipulation, but this was not satisfactory to Judge

OF THE MULTITUDES

who have used it, or are now using it, we have never heard of any one who has been disappointed in it. No claims are made for it except those which are amply justified by experience. In commending it to the afflicted we simply point to its record. It has done great things, and it is certain to continue the excellent work. There is—we may honestly affirm—no medicine which can be used with greater and more reasonable faith and confidence. It nourishes and keeps up the strength during those periods when the appetite fails and food cannot be digested. To avoid imitations and substitutions, this "trade mark" is put on every



bottle of "Wampole's Preparation," and without it none is genuine. It is palatable as honey and contains the nutritive and curative properties of Pure Cod Liver Oil, extracted by us from fresh cod livers, combined with the Compound Syrup of Hypophosphites and the Extracts of Malt and Wild Cherry. Taken before meals it creates an appetite, aids digestion, renews vital power, drives out disease germs, makes the blood rich, red and full of constructive elements and gives back to the pleasures and labors of the world many who had abandoned hope. Dr. S. H. McCoy, of Canada, says: "I testify with pleasure to its unlimited usefulness as a tissue builder." Its curative powers can always be relied upon. It makes a new era in medicine and represents the best medical advice of the twentieth century. Effective from the first dose. "You cannot be disappointed in it." Sold by all chemists the world over

Robinson. He felt that to weigh the testimony properly he should have had opportunity of hearing it from the mouths of the witnesses, and observing the demeanor of witnesses on the stand. According to his view of the directions of the court above, also. Judge Robinson refused to admit any new evidence on the part of the plaintiff. Moreover, he considered that Judge De Bolt should have reheard the case himself. Judge De Bolt had held that he was not legally but morally disqualified, hence had assigned the case to Judge Robinson.

A. G. M. Robertson, attorney for plaintiffs, was much dissatisfied with Judge Robinson's throwing up of the case and it was reported yesterday evening that he might sue for a mandamus from the Supreme Court to compel Judge Robinson to resume the hearing and render judgment. J. J. Dunne appeared for the plaintiffs.

LONG-WINDED CASE.

The Godfrey-Rowland ejectment trial before Judge De Bolt reached the beginning of the case for the defendants yesterday afternoon. A motion for a nonsuit, made when the plaintiffs rested, had been denied.

MISSING WAILUKU STOCK.

Maria King and Elizabeth Fairchild, beneficiaries under the will of the late Thomas Cummins, have filed objections to the report of Henry Smith, master, on the accounts of Bruce Cartwright, trustee. M. F. Prosser is their attorney and the objection is based on the following reasons:

"That the said trustee has not fully accounted for property of the estate of decedent in that he should now have in his possession, as part of said estate, the forty shares of stock in the Wailuku Sugar Co. referred to on the sixth page of said report.

"That said forty shares of stock in said Wailuku Sugar Co. were issued to the estate of decedent and were awarded to said Cartwright as trustee of said estate."

TO THROW OUT APPEAL.

In the case of W. W. Dimond & Co., Ltd., vs. Jonah Kuhio Kalaniana'ole, the plaintiff, by its attorneys, Thayer & Hemenway, moves that the appeal of defendant from the District Court be stricken from the docket on the ground that no appeal lies to the Circuit Court from a judgment of a District Magistrate rendered on default.

MOTION FOR SALE.

Castle & Withington for W. R. Castle and others, of defendants in the partition suit of M. F. Scott et al., vs. E. N. Pilipo et al., move under Judge De Bolt's supplementary decree for an order of sale of all the remaining portion of the land of Hoiualoa lying between the upper government road mentioned in said decree.

DAVIS ASSERTS INNOCENCE.

George A. Davis has filed a brief on his petition for a rehearing of the case of his disbarment. It occupies eleven pages of typewritten with an additional page of newspaper print interleaved, the latter purporting to be a verbatim report of the stormy proceedings before Circuit Judge Perry (now Associate Justice of the Supreme Court) which ended in Davis's being committed to prison, on a Christmas eve, for ten days for contempt of court, the sentence taking effect on the completion of one just preceding to pay a fine of fifty dollars.

Davis goes over the same ground as in his previous pleadings and concludes thus:

"No case can be found where an attorney brings a suit by which all parties are benefited, when his conduct was open and free from suspicion; where the parties entitled to their money so far as the attorney is concerned got it and where compensation for his services was agreed upon by his client, and is both reasonable and satisfactory, was ever suspended or disbarred.

"Justice and fair play call loudly for a reversal of this order of disbarment and believing that my innocence is stamped upon this record and that no tribunal ought upon the evidence find me guilty, I ask for a rehearing and for a reversal and vindication."

MANDATE TO MAGISTRATE.

E. O. Hall & Son, Ltd., yesterday brought a mandamus suit against Lyle A. Dickey, First District Magistrate of Honolulu, to compel him to issue an execution on a judgment for \$309.40 in favor of plaintiff in the suit of E. O. Hall & Son, Ltd., vs. William C. Achi. In the case mentioned, it is alleged, defendant made no defense whatever but after judgment appealed to the Circuit Court. Plaintiff next moved before Judge Dickey that an execution issue forthwith, for the reason that the appeal was ostensibly taken for delay. Judge Dickey denied the motion in the following delivery:

"The court finds that good cause has been shown for issuance of an execution pending defendant's appeal to Circuit Court, First Circuit, which has been perfected, but denies the motion on the ground that Section 37, Laws of 1892, as amended by Section 17, Act 32, Laws of 1903, is not applicable to District Magistrates in cases where the amount involved is over \$20."

Under the old law a debtor might beat his creditor by dilatory appeals. Among other law amendments enacted by the last Legislature was one intended to remedy this abuse. Judge Dickey, however, holds that the 1903 law does not reach its intended mark. This mandamus suit will serve as a test of the question.

THE SPRECKELS CASE.

Claus Spreckels by his attorneys, Kinney & McClanahan and Hatch & Ballou, answers the ejectment complaint of his daughter, Emma Claudina Spreckels Watson, with a denial of each and every allegation thereof.

JUDGE GEAR HEARD FROM

Renders His Promised Decision in Tenor Expected.

Judge Gear yesterday morning rendered his decision, that had been awaited for seven days, on the constitutional question relative to what constituted infamous punishment, and as such requiring the indictment of an accused person by a grand jury before it could be inflicted.

The substance of the decision is that a person accused of any offense for which he is liable to be imprisoned in the Territorial prison has a right to the benefit of a grand jury investigation. Though the sentence may be only a small fine, yet the fact that the convicted person may be imprisoned, in default of payment, to work out the penalty at one day for fifty cents places him under the protection of that provision of the Constitution which says that no person shall be held to answer for a capital or otherwise infamous crime unless upon presentment or indictment of a grand jury.

Judge Robinson, who sat with Judge Gear at the rendering of the decision, concurred in the conclusions.

OTHER DEFENDANTS HELD.

While the defendant at bar was discharged, the cases of fifty and odd more from the District Court were continued for one week so as to give time for their investigation by the grand jury. A shorter space had been appointed for some of them, but all were put a week ahead on the statement of Attorney General Andrews that it would be physically impossible for the grand jury to accomplish the added work sooner.

DAVIS BUTTS IN.

George A. Davis, on the continuance being announced, from between set teeth ground out the remark:

"They may be released before that time on habeas corpus."

"There is no habeas corpus before the court," Judge Gear answered.

"I will apply for a writ of habeas corpus for one of them," Davis retorted forth as the last word.

THE TEST CASE.

Wa Sin was the man set at liberty by the decision. He had appealed from conviction in the District Court of selling a poisonous drug to wit: opium, or a preparation thereof—without a license, in violation of Sec. 777 of the Penal Laws of 1897. This law provides that anyone who violates its provisions "shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned at hard labor not exceeding six months in the discretion of the court."

Concluding an opinion of thirty-three typewritten pages, Judge Gear thus decides:

"If, as decided in 57 Fed. R. p. 206, a judgment of imprisonment in the state prison at hard labor for two days was an infamous punishment, and therefore the defendant was released because of not having been indicted by a grand jury, it is incomprehensible how this Court can have jurisdiction to adjudge imprisonment in the Territorial prison at hard labor for a much longer term without an indictment of a grand jury.

"It is the opinion of the Court that the punishment which may be inflicted in this case under the statutes of this Territory, is an infamous punishment. If it is not, then there is no infamous punishment for any offense regardless of its gravity, and this Territory may by mere failure to legislate render absolutely inoperative in this Territory the 5th Amendment to the Constitution of the United States. Such a proposition is unthinkable and absurd.

"The punishment allowed being infamous, the defendant is entitled to an indictment by a grand jury before he can be placed on trial for the alleged offense, and until such indictment is found this Court has no jurisdiction of the offense charged and must therefore discharge the defendant, and it is so ordered."

Deputy Attorney General Peters appeared for the Territory, and R. W. Breckons for the defendant.

THE REASONING.

Much the greater portion of the opinion consists of citations from Federal and State decisions, some of which have appeared in the Advertiser's previous reports of the matter. Quotations from laws of the Territory and official reports were used to show that Oahu prison, where all offenders sentenced to imprisonment in the Territory are confined, is the Territorial penitentiary wherein imprisonment for any term however short constitutes infamous punishment.

USEFUL DISCOVERIES

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It is not always the greatest, most startling discoveries of science that are most useful to the human race.

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Chances to Purchase Real Estate

ON SATURDAY, SEPT. 26, 1903 AT 12 O'CLOCK NOON,

At the Judiciary Building, Honolulu, there will be sold at Public Auction, the following valuable properties:

By F. H. Loucks, Commissioner, foreclosure sale of Manuel G. Silva, a valuable parcel of land at Kapaakea, Honolulu, 51-100 acre, 80x270 feet, near the Baseball grounds.

Valuable property on Wilder Avenue and Makiki street, 39,110 sq. ft., a very valuable lot.

Lot of land on Kuakini street, area 3425 sq. ft.

By Geo. Lucas, Commissioner, W. F. Allen, Trustee, vs. S. K. Ka-ne and Kealohe Ka-ne:

1st. Land at Kalia, Waikiki, 6234 sq. ft., more or less.

2nd. Land at Kalia, Waikiki, 5981 sq. ft., more or less.

3rd. Land at Palikea, Nuuanu, Oahu, 1 61-100 acres, more or less.

4th. Lease of land with buildings on King street, opposite the Honolulu Stock Yards property. Brings in a good rental.

By W. O. Smith, Administrator of the Estate of Ethel P. N. Gay, deceased, one-seventh interest in lands at Wailuku, Maui.

JAS. F. MORGAN, AUCTIONEER.

SATURDAY, SEPT. 26, 1903, Mortgagees Sales

At salesroom of Jas. F. Morgan, 847 Kaahumanu street, at 12 o'clock noon, Mortgage by Charles E. Moore and wife to Cecil Brown, Trustee. Premises on Lunailo street, opposite Kewalo street. Lot 50 feet on Lunailo street and 90 feet deep. Nice dwelling on the property.

Mortgage by A. W. Anderson and wife to Henry Waterhouse Co., assigned to Charles Notley, Sr. Premises on Lunailo street adjoining the Charles E. Moore property. Area 3000 square feet.

JAS. F. MORGAN, AUCTIONEER.

Auction Sale of Collateral Securities

By order of Messrs. Bishop & Co., there will be sold at public auction at the salesroom of Jas. F. Morgan, 847 Kaahumanu street, Honolulu,

ON MONDAY, SEPT. 28, 1903, AT 12 O'CLOCK NOON,

the following shares of stock, held as Collateral under a promissory note:

100 Shares of the Capital Stock of the Waimea Sugar Mill Co., Ltd., represented by Certificate No. 23.

100 Shares of the Capital Stock of the Waimea Sugar Mill Co., Ltd., represented by Certificate No. 24.

50 Shares of the Capital Stock of the Waimea Sugar Mill Co., Ltd., represented by Certificate No. 109.

20 Shares of the Capital Stock of the Kahuku Plantation Co., represented by Certificate No. 146.

50 Shares of the Capital Stock of the Kahuku Plantation Co., Ltd., represented by Certificate No. 215.

10 Shares of the Capital Stock of the South Kona Agricultural Co., Ltd., represented by Certificate No. 14.

Terms Cash, U. S. Gold Coin.

J. J. DUNNE, Attorney for Bishop & Co.

JAS. F. MORGAN, AUCTIONEER.

Auction Sale OF Delinquent Stock IN THE Concrete Construction Co., LTD.

WEDNESDAY, OCT. 7, AT NOON

By order of the directors of the Concrete Construction Company, Limited, and acting for them, I hereby give notice, that I intend to sell and will sell, at public auction, on Wednesday, October 7th, 1903, at 12 o'clock noon, at the salesroom of James F. Morgan Nos. 847 to 857 Kaahumanu street, in Honolulu, Island of Oahu, Territory of Hawaii, United States of America, eighty-five (85) shares of the capital stock of said Company, or a sufficient number of said shares to pay the amount due thereon, said shares being contained in Certificate No. 5, and duly issued to C. Leonard, of the City of Los Angeles, in the State of California, upon which there is due and owing said company a balance of an assessment of twenty (20) per cent., amounting to the sum of one thousand and twenty dollars (\$1,020), which said assessment was duly levied on the 12th day of December, 1900, and remains unpaid, said sale to take effect as aforesaid, unless said assessment, with interest thereon, the cost of this publication, and the auctioneer's fee, is paid on or before the day and hour of said sale.

Dated September 7th, 1903.

E. P. CHAPIN, Treasurer, The Concrete Construction Co., Ltd.

JAS. F. MORGAN, AUCTIONEER.

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The Aetna Fire Insurance Co. of Hartford, Conn. The Alliance Assurance Co. of London.

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